

I hereby certify that the
annexed instrument is a true
and correct copy of the original
on file in my office.
ATTEST: BRUCE BIRKIN
Clerk, U. S. District Court,
Western District of Washington

By Randall S. Mer
Deputy Clerk

2:07cv814-MHT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BILL LIETZKE,)	CASE NO. C07-1061-RSM
)	
Plaintiff,)	
)	
v.)	ORDER TRANSFERRING CASE
)	
COUNTY OF MONTGOMERY, et al.,)	
)	
Defendants.)	

Plaintiff Bill Lietzke, appearing *pro se*, filed an application to proceed *in forma pauperis* and a proposed 42 U.S.C. § 1983 civil rights complaint against the County of Montgomery in Alabama, and two individual "County of Montgomery Defendants" – Reese McKinney and D.T. Marshall. (Dkt. 1.) Plaintiff's allegations relate to his incarceration in psychiatric facilities in Montgomery, Alabama. He asserts jurisdiction based on the existence of a federal question. However, as discussed below, the Court finds a transfer in order due to improper venue.

Venue for actions not based solely on diversity of citizenship is determined by 28 U.S.C. § 1391(b), which states:

01 A civil action wherein jurisdiction is not founded solely on diversity of citizenship
02 may, except as otherwise provided by law, be brought *only* in (1) a judicial district
03 where any defendant resides, if all defendants reside in the same State, (2) a judicial
04 district in which a substantial part of the events or omissions giving rise to the claim
occurred, or a substantial part of property that is the subject of the action is situated,
or (3) a judicial district in which any defendant may be found, if there is no district in
which the action may otherwise be brought.

05 28 U.S.C. § 1391(b) (emphasis added). Here, the named defendants – the County of
06 Montgomery, McKinney, and Marshall – reside in the State of Alabama, not the State of
07 Washington. Furthermore, all of the events or omissions giving rise to the claims in plaintiff’s
08 complaint occurred in Alabama, not Washington. Accordingly, venue is not proper in the United
09 States District Court for the Western District of Washington.

10 Title 28 U.S.C. § 1406(a) provides that “[t]he district court of a district in which is filed
11 a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of
12 justice, transfer such case to any district or division in which it could have been brought.” Because
13 the defendants reside in Alabama, and because all of the acts or omissions giving rise to plaintiff’s
14 claims occurred in Alabama, this action could have been brought in the United States District
15 Court for the Middle District of Alabama. The Court finds that a transfer to that court is in the
16 interest of justice.

17 For the reasons described above, the Court hereby ORDERS that this case be
18 TRANSFERRED to the United States District Court for the Middle District of Alabama. The
19 Clerk of Court is directed to TRANSFER this case pursuant to 28 U.S.C. § 1406(a) and is further
20 directed to send a copy of this Order to plaintiff and to the Honorable Mary Alice Theiler, United

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01 States Magistrate Judge.

02 DATED this 17th day of July, 2007.

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RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE_

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09 Recommended for entry
this 16th day of July, 2007.

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s/ Mary Alice Theiler
United States Magistrate Judge

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